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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/067,440

02/05/2002

John K. Newton

NEWT-001

7397

65215 7590 11/28/2007  
NEUSTEL LAW OFFICES, LTD.  
2534 SOUTH UNIVERSITY DRIVE  
SUITE 4  
FARGO, ND 58103

EXAMINER

LASTRA, DANIEL

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

11/28/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/067,440

Applicant(s)

NEWTON ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-10,12,13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-10,12,13 and 15-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1, 3-10, 12, 13 and 15-23 have been examined. Application 10/067,440 (METHOD TO MANAGE MARKETING AND SALES DATA OF E-COMMERCE CLIENTS) has a filing date 02/05/2002.

#### ***Response to Amendment***

2. In response to Non Final Rejection filed 03/22/2007, the Applicant filed an Amendment on 08/21/2007, which amended claims 1, 5, 6, 8, 12, 13, 15, 18, 19 and added new claims 20-23.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 23 recite the limitation "the recruiting up-line team member" in part

a. Claim 23 recites in part (l) "using the information. There is insufficient antecedent basis for this limitation in the claim.

Claims 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 20 and 21 recites "star" and "pyramid" relationship. Applicant's specification mentioned said terms in paragraph 29 of 2003/0149572 but does not explain the meaning of same term. For purpose of art rejection, said limitation would be interpreted as meaning having some type of relationship between members.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-9, 12, 13 and 15-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Sash (US 2005/0075925).

Claim 6, Sash teaches:

A method for a marketing network service to generate and manage sales and marketing information for service members comprising:

(a) subscribing to a marketing network service to be a new member communicatively linked to the recruiting up-line team member(s), *where the new member and the recruiting up-line team member(s) from a hierarchical relationship between one another within the marketing network service* (see paragraph 128, 130 “refer a friend”). In Sash, a member recruits other contacts by sending said contacts a referring email.

b) training the new member through the marketing service where the training progress is tracked by the up-line team member(s), *and where the new member is trained to utilize the marketing service and to bring a Web site user to a Web site hosted*

*by either the new member or the up-line team member(s)* (see paragraph 98; see figure 27c “if you’re interested you can visit their website at [www.merchant.com](http://www.merchant.com));

(c) bringing business to the Web site presenting goods and/or services on the marketing network service computing platform (see paragraph 128 “marketing websites”);

(d) obtaining *personal information from the Web site user* (see figure 17b);

(e) capturing *a user experience from the Web site user* (see figure 27b);

(f) detecting the departure of the Web site user from the Web site (see paragraph 129);

(g) generating a contact report, *where the contact report comprises a neuro dynamic profile and identified interests of the Web site user* (see figure 27a,b);

(h) notifying the new member of a business contact by receiving the contact report *through e-mail, posted mail and telephone* (see paragraph 128);

(i) accessing a data managing program to retrieve or input data (see paragraph 128);

(j) monitoring the contact report and activity of the new member (see figure 27b);  
and

(k) using *contact report by the up-line member(s) and the new member* (see figures 27a,b).

Claim 7, Sash teaches:

A method as claimed in claim 6 where said bringing business comprises inviting traffic based on purchased leads given or sold to said marketing network service and

inviting traffic through promotion of the Web site through, newspapers, flyers, Web advertisements and Web links (see paragraph 128).

Claim 8, Sash teaches:

A method as claimed in claim 6 where said obtaining comprises the Web site user signing a guest book with personal information (see figure 17b).

Claim 9, Sash teaches:

A method as claimed in claim 8 where said personal information comprises the Web site user's name, e-mail address, correspondence address and telephone number (see figure 17b).

Claim 12, Sash teaches:

A method as claimed in claim 6 where said neuro dynamic profile and said interests are derived from said personal information and said Web site user experience (see figure 27b; paragraph 128-129).

Claim 13, Sash teaches:

A method as claimed in claim 6 where said neuro dynamic profile is characterized to by personality type, communication style, motivation strategy and decision strategy (see figure 27b).

Claim 15, Sash teaches:

where said monitoring further comprises monitoring by the up-line team members) to determine the activity status of a down-line member, motivate the down-line member and to determine to collaborate with the down-line member regarding the

contact report (see paragraph 127, 129 "reviewing particular person's detailed history in order to decide to contact a member").

Claim 16, Sash teaches:

A method as claimed in claim 6 where said using the information by the service members comprises evaluation of the contact report by the team members to form a guest response that is psychologically effective to encourage sales (see paragraph 129 "reviewing feedback so better decide if the member should target a contact or not").

Claim 17, Sash teaches:

A method as claimed in claim 6 where said using further comprises providing information to the Web site user, transacting a sale of goods and/ or services with the Web site user and accepting subscription of the Web site user to the marketing network service (see paragraphs 127 and 130).

Claim 18, Sash teaches:

where said communicatively linked and said monitoring and said tracked comprises a flow of business information between the *new* member and the appropriate up-line team member(s) is facilitated by a Teamwork Communication System (see paragraph 114).

Claim 19, Sash teaches:

A method as claimed in claim 6 where said data management program is a Contact Manager program governed by the marketing network service (see paragraph 114).

Claim 20, Sash teaches:

A method as claimed in claim 6 where the up-line team member(s) and the new member comprise a pyramid hierarchal relationship (see paragraph 128). In Sash, the referrer receives some type of compensation for referring a contact to a website.

Claim 21, Sash teaches:

A method as claimed in claim 6 where the up-line team member(s) and the new member comprise a star hierarchal relationship (see paragraph 128). In Sash, the referrer receives some type of compensation for referring a contact to a website.

Claim 22, Sash teaches:

A method as claimed in claim 6 where said marketing network service follows said Web site user to any other Web site that said Web site user visits throughout the internet after said Web site user exits said Web site of said new member or said up-line team member(s) (see paragraph 129 "when Sarah leaves the merchant's website")

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 10 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sash (US 2005/0075925) in view of Applicant's background of the invention (US 2003/0149572).

Claim 1, Sash teaches:



A method for a marketing service to generate and manage sales and marketing information for service members comprising:

(a) obtaining personal information of a guest (see figure 17b);

(c) creating a neuro dynamic profile particular to each guest, *where the neuro dynamic profile is characterized by personality type, communication style, motivation strategy and decision strategy* (see figure 27b). Sash teaches that Katie Rose Jones has an intelligent personality that likes books and shows, likes to communicate using visual feedbacks, also has a decision strategy of based decision on reviews from others and also has a motivation strategy of receiving pleasure from her actions (see figure 27b).

(d) combining the personal information, viewing activity and neuro dynamic profile to form a contact report (see figure 27a; paragraph 128);

(e) storing the contact report under a contact management program file (see figure 27a);

(f) moving contact information *of the contact report* between service members (see paragraph 127); and (g) using the contact information by the service members (see paragraph 127).

Sash does not expressly teach (b) tracking viewing activity of the guest considering an offer for goods and/or services (see figure 30b). However, Applicant's background of the invention teaches that it is old and well known in the promotion art to track a user online viewing history (see 2003/0149572 paragraph 6). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was

made, to know that Sash would track a user's online viewing history in order to better target promotions to said user, as it is old and well known to do so, as taught by Applicant's background of the invention.

Claim 3, Sash teaches:

where said storing comprises storing said viewing activity and said neuro dynamic profile as a guest file under the Contact Manager governed by the marketing service (see figure 27a, paragraph 127).

Claim 4, Sash teaches:

where said moving the information comprises data management provided by the Teamwork Communication System governed by the marketing service (see paragraph 114).

Claim 5, Sash teaches:

where said using the information by the service members comprises evaluation of the contact report by team members to form a guest response that is psychologically effective to encourage guest activity or sales (see paragraph 129). Sash reviewed the product history of a contact in order to determine if Sash would target promotions to said contact or not.

Claim 10, Sash fails to teach:

where said Web site user experience comprises the length of time the user visited the site, what site pages were viewed and the length of time each page was viewed. However, Applicant's background of the invention teaches that it is old and well known in the promotion art to track a user online viewing history (see 2003/0149572

paragraph 6). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Sash would track a user's online viewing history in order to better target promotions to said user, as it is old and well known to do so, as taught by Applicant's background of the invention.

Claim 23, Sash teaches:

A method for a marketing network service to generate and manage sales and marketing information for service members comprising:

(a) subscribing to a marketing network service to be a new member communicatively linked to the recruiting up-line team member(s), wherein the new member and the recruiting up-line team member(s) form a hierarchal relationship between one another within the marketing network service and where said communicatively linked comprises a flow of business information between the new member and the appropriate up-line team member(s) is facilitated by a Teamwork Communication System (see paragraph 90);

(b) training the new member through the marketing service where the training progress is tracked by the up-line team member(s) and where the new member is trained to utilize the marketing service and to bring a Web site user to a Web site hosted by either the new member or the up-line team member(s) (see paragraph 98; figure 27c "if you're interested you can visit their website at [www.merchant.com](http://www.merchant.com));

(c) bringing business to the Web site presenting goods and/or services on the marketing network service computing platform (see figure 27c);

(d) obtaining personal information from the Web site user (see figure 17b);

(e) tracking viewing activity of the Web site user considering an offer for goods and/or services (see figure 30b). Sash teaches tracking if a user purchased a product in a website.

(g) detecting the departure of the Web site user from the Web site (see paragraph 129 "when Sarah leaves the merchant's website");

(h) generating a contact report, wherein the contact report comprises a neuro dynamic profile particular to the Web site user and where the neuro dynamic profile is characterized by personality type, communication style, motivation strategy and decision strategy and where the personality types include aggressiveness, patience, intelligence and practicality, where the communication style includes a predilection to information presented in a visual, auditory, kinetic or analog/digital fashion, where the motivation strategy includes the Web site users tendency to move away from pain or to move toward pleasure and wherein the decision strategy includes the Web site users tendency to collect and base a decision based on reviews from others or internalize the product/service information for self-determination. Sash teaches that Katie Rose Jones has an intelligent personality that likes books and shows, likes to communicate using visual feedbacks, also has a decision strategy of based decision on reviews from others and also has a motivation strategy of receiving pleasure from her actions (see figure 27b).

(i) notifying the new member of a business contact by receiving the contact report (see paragraph 127);

(j) accessing a data managing program to retrieve or input data, where the data managing program is comprised of a Contact Manager program governed by the marketing network service (see paragraph 127-129);

(k) monitoring the contact report and activity of the new member, where the monitoring further comprises monitoring by the up-line team member(s) to determine the activity status of the new member, motivate the new member and to determine to collaborate with the new member regarding the contact report (see paragraph 127); and

(l) using the information by the service members, where the service members comprise the up-line team member(s) and the new member and where said using the information by the service members comprises evaluation of the contact report by the team members to form a guest response that is psychologically effective to encourage sales and where said using further comprises providing information to the Web site user, transacting a sale of goods and/or services with the Web site user and accepting subscription of the Web site user to the marketing network service (see paragraph 129 "reviewing feedback report in order to decide if a contact would be targeted with promotions").

Sash fails to teach (f) capturing a user experience from the Web site user, where the user experience of the Web site user comprises the length of time the user visited the site, what site pages were viewed and the length of time each page was viewed. However, Applicant's background of the invention teaches that it is old and well known in the promotion art to track a user online viewing history (see 2003/0149572 paragraph 6). Therefore, it would have been obvious to a person of ordinary skill in the art at the

time the application was made, to know that Sash would track a user's online viewing history in order to better target promotions to said user, as it is old and well known to do so, as taught by Applicant's background of the invention.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 3-10, 12, 13 and 15-23 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra  
November 8, 2007

*Paul L. Lister*  
Patent Examiner